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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,380	02/24/2004	Paul Polizzotto	ECC.001CPI	6578
20995 7590 01/14/2008 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			EXAMINER RIVIERE, HEIDI M	
			ART UNIT 3629	PAPER NUMBER
			NOTIFICATION DATE 01/14/2008	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/785,380

Applicant(s)

POLIZZOTTO, PAUL

Examiner

Heidi Riviere

Art Unit

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date See Continuation Sheet
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :19 April 2004 and 30 August 2004.

DETAILED ACTION

Information Disclosure Statement

1. The Information Disclosure Statements filed on **19 April 2004 and 30 August 2007** have been considered. An initialed copy of the Form 1449 is enclosed herewith.

Drawings

2. **Figures 4A, 4B and 5A** all contain registered trademarks of either Catalina Express, Morrison Homes, Good Stuff, TRW, NBC 4 or NBC. However, the specification does not mention that these trademarks are part of the drawings or give ownership details for these trademarks. Applicant must amend the specification to include a statement identifying the trademark material forming part of the claimed design and the name of the owner of the trademark.
3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters **"402"** and **"404"** have both been used to designate company logo.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as

either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The use of the trademarks Catalina Express, Morrison Homes, Good Stuff, TRW, NBC 4 and NBC has been noted in this application. Not only should they also be mentioned in the Specification, but they should also be capitalized wherever they appear and should be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner, which might adversely affect their validity as trademarks.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. **Claim 1** is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

7. The claimed invention as a whole must produce a "useful, concrete and tangible result." *State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 149 F.3d 1368, 1373-74, 47 USPQ2D 1596, 1601-02 (Fed. Cir. 1998). According to the Patent & Trademark Office Guidelines, to be concrete and tangible the invention must produce

and specify a real-world result. *MPEP* § 2106. Furthermore, the invention is not patentable if the result disclosed is "a compilation of data, or legal document (e.g., an insurance policy) *per se* does not appear to be a process, machine, manufacture, or composition of matter." *MPEP* § 2106. Claim 1 merely details storage of data with no further manipulation.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claims 1, 4, 12 and 31** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Saxe (US 5,636,346)** in view of **Appendix D: Federal and State Environmental Database Search, March 2000** (hereinafter "**Appendix**") and further in view of **Srinivasan et al. (US 6,411,992 B1)** (hereinafter "**Srinivasan**").

10. **With respect to claim 1:** Saxe teaches:

- a demographic data store that stores demographic information; (col. 5, lines 42-51 - subscriber demographic information is added to each subscriber record)

- a television ratings data store that stores rating information for a plurality of television shows; (col. 5, lines 42-51 – directory generates cable viewer ratings)
- broadcast media related to the pollution abatement program, wherein the viewing of the broadcast media is used to meet at least a first pollution abatement program mandate, (col. 5, lines 42-51 – directory generates cable viewer ratings) and
- a computer system coupled to the demographic data store, the television ratings data store, governmental mandate data store, wherein the computer system is configured to identify a local government body that is to adhere to a water runoff pollution abatement program and to identify at least a first show as a potential candidate with which the broadcast media related to the pollution abatement program is to be televised in conjunction with. (col. 5, lines 42-51; col. 6, lines 49-67; col. 10, lines 1-17 - subscriber demographic information is added to each subscriber record; system used to identify prospective customers in order to direct targeted advertiser's commercial message).

Saxe does not teach a governmental mandate data store that stores information related to a pollution abatement program; and wherein the broadcast media includes a sponsor identification that the sponsor pays a fee for, at least a portion of which is used to meet at least a second pollution abatement program mandate.

However, Appendix teaches a governmental mandate data store that stores information related to a pollution abatement program; (search of list of Federal databases that include environmental information).

Saxe/Appendix does not teach wherein the broadcast media includes a sponsor identification that the sponsor pays a fee for, at least a portion of which is used to meet at least a second pollution abatement program mandate.

However, Srinivasan teaches wherein the broadcast media includes a sponsor identification that the sponsor pays a fee for, at least a portion of which is used to meet at least a second pollution abatement program mandate; (col. 5, lines 10-22, 55-63 – relevant sponsor identifying information can be added to broadcast of programming and commercials).

Therefore it would have been obvious to one of ordinary skill in the art of the invention to combine the teachings of Saxe relating to television ratings and demographics, Appendix relating to government database and Srinivasan relating to television programming sponsors because of the need to educate the public in the proper way on pertinent issues and dutifully give credit to the correct sponsor.

Furthermore, the data identifying type of information stored is non-functional descriptive data.

Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." Exemplary "functional descriptive material" consists of data structures and computer programs, which impart functionality when employed as a computer component. "Nonfunctional descriptive material"

includes but is not limited to music, literary works and a compilation or mere arrangement of data.

When presented with a claim comprising descriptive material, an Examiner must determine whether the claimed nonfunctional descriptive material should be given patentable weight. The Patent and Trademark Office (PTO) must consider all claim limitations when determining patentability of an invention over the prior art. *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401,404 (Fed. Cir. 1983). The PTO may not disregard claim limitations comprised of printed matter. See *Gulack*, 703 F.2d at 1384-85, 217 USPQ at 403; see also *Diamond v. Diehr*, 450 U.S. 175, 191, 209 USPQ 1, 10 (1981). However, the examiner need not give patentable weight to descriptive material absent a new and unobvious functional relationship between the descriptive material and the subset. See *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994); *In re Ngai*, 367 F.3d 1336, 1338, 70 USPQ2d 1862, 1863-64 (Fed. Cir. 2004). Thus, when the prior art describes all the claimed structural and functional relationships between the descriptive material and the subset, but the prior art describes a different descriptive material than the claim, then the descriptive material is nonfunctional and will not be given any patentable weight. That is, such a scenario presents no new and unobvious functional relationship between the descriptive material and the subset.

The Examiner asserts that the data identifying type of information stored adds little, if anything, to the claimed acts or steps and thus do not serve as limitations on the claims to distinguish over the prior art. MPEP 2106IV b 1(b) indicates that "nonfunctional descriptive material" is material "that cannot exhibit any functional

interrelationship with the way the steps are performed". Any differences related merely to the meaning and information conveyed through data, which does not explicitly alter or impact the steps is non-functional descriptive data. The subjective interpretation of the data does not patentably distinguish the claimed invention.

11. **With respect to claims 4, 12 and 31:** Saxe/Appendix/Srinivasan teach the limitations in the rejections above. However, Saxe/Appendix/Srinivasan does not teach the broadcast media includes one or more of a name, a tagline, an address, a logo, a website address and a phone number. Srinivasan teaches the broadcast media includes one or more of a name, a tagline, an address, a logo, a website address and a phone number. (col. 5, lines 10-22, 55-63 – relevant sponsor identifying information can be added to broadcast of programming and commercials; each program or commercial has file name).

Therefore it would have been obvious to one of ordinary skill in the art of the invention to combine the teachings of Saxe relating to television ratings and demographics, Appendix relating to government database and Srinivasan relating to television programming sponsors because of the need to educate the public in the proper way on pertinent issues and dutifully give credit to the correct sponsor.

12. **Claims 2 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saxe in view of Appendix and further in view of Srinivasan and further in view of Applicant's Own Admission.**

13. **With respect to claims 2 and 8:** Saxe/Appendix/Srinivasan teach the limitations in the rejections above. However, Saxe/Appendix/Srinivasan does not teach the local government body is required by the EPA's Six Minimum Control Measures to implement a public educational program informing citizens about storm water pollution problem and prevention. However, Applicant's Own Admission teaches the local government body is required by the EPA's Six Minimum Control Measures to implement a public educational program informing citizens about storm water pollution problem and prevention. (Background at paragraph 8 – Storm Water Phase II "rules relate to public education and outreach on storm water impacts, public involvement/participation ... and pollution prevention/good housekeeping for municipal operations").

Therefore it would have been obvious to one of ordinary skill in the art of the invention to combine the teachings of Saxe relating to television ratings and demographics, Appendix relating to government database and Srinivasan relating to television programming sponsors and Applicant's Own Admission that local government bodies have an EPA mandate to educate the public on environmental issues because of the need to educate the public in the proper way on pertinent issues and dutifully give credit to the correct sponsor.

14. **Claims 3, 6, 10, 16 and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Saxe** in view of **Appendix** and further in view of **Srinivasan** and further in view of **Nickerson et al. (4,566,030)** (hereinafter "**Nickerson**").

15. **With respect to claims 3 and 10:** Saxe/Appendix/Srinivasan teach the limitations in the rejections above. However, Saxe/Appendix/Srinivasan does not teach the computer is further configured to compare an estimated number of viewers of the public service-type announcement with a number specified by a government entity. Nickerson teaches the computer is further configured to compare an estimated number of viewers of the public service-type announcement with a number specified by a government entity. (col. 3, line 61 to col. 4, line 11; col. 5, line 64 to col. 6, line 25; col. 7, lines 40-58 – television viewer data collection system monitors viewing choices of cable TV viewer; viewer market research conducted)

Therefore it would have been obvious to one of ordinary skill in the art of the invention to combine the teachings of Saxe relating to television ratings and demographics, Appendix relating to government database and Srinivasan relating to television programming sponsors and Nickerson relating to collecting viewer data because of the need to educate the public in the proper way on pertinent issues and dutifully give credit to the correct sponsor.

16. **With respect to claims 6, 16 and 19:** Saxe/Appendix/Srinivasan teach the limitations in the rejections above. However, Saxe/Appendix/Srinivasan does not teach the broadcast media announcement includes images of a polluted body of water in an area where the broadcast media is to be televised. However, Nickerson teaches the broadcast media announcement includes images of a polluted body of water in an area where the broadcast media is to be televised. (col. 3, line 61 to col. 4, line 11; col. 5, line

64 to col. 6, line 25 – television viewer data collection system monitors viewing choices of cable TV viewer)

Therefore it would have been obvious to one of ordinary skill in the art of the invention to combine the teachings of Saxe relating to television ratings and demographics, Appendix relating to government database and Srinivasan relating to television programming sponsors and Nickerson relating to collecting viewer data because of the need to educate the public in the proper way on pertinent issues and dutifully give credit to the correct sponsor.

Furthermore, the data identifying images in media announcement as well as type of media announcement is non-functional descriptive data.

Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." Exemplary "functional descriptive material" consists of data structures and computer programs, which impart functionality when employed as a computer component. "Nonfunctional descriptive material" includes but is not limited to music, literary works and a compilation or mere arrangement of data.

When presented with a claim comprising descriptive material, an Examiner must determine whether the claimed nonfunctional descriptive material should be given patentable weight. The Patent and Trademark Office (PTO) must consider all claim limitations when determining patentability of an invention over the prior art. *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401,404 (Fed. Cir. 1983). The PTO may not disregard claim limitations comprised of printed matter. See *Gulack*, 703 F.2d at 1384-85,217

USPQ at 403; *see also Diamond v. Diehr*, 450 U.S. 175, 191,209 USPQ 1, 10 (1981). However, the examiner need not give patentable weight to descriptive material absent a new and unobvious functional relationship between the descriptive material and the subset. *See In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994); *In re Ngai*, 367 F.3d 1336, 1338, 70 USPQ2d 1862, 1863-64 (Fed. Cir. 2004). Thus, when the prior art describes all the claimed structural and functional relationships between the descriptive material and the subset, but the prior art describes a different descriptive material than the claim, then the descriptive material is nonfunctional and will not be given any patentable weight. That is, such a scenario presents no new and unobvious functional relationship between the descriptive material and the subset.

The Examiner asserts that the data identifying images in media announcement as well as type of media announcement adds little, if anything, to the claimed acts or steps and thus do no serve as limitations on the claims to distinguish over the prior art. MPEP 2106IV b 1(b) indicates that "nonfunctional descriptive material" is material "that cannot exhibit any functional interrelationship with the way the steps are performed". Any differences related merely to the meaning and information conveyed through data, which does not explicitly alter or impact the steps is non-functional descriptive data. The subjective interpretation of the data does not patentably distinguish the claimed invention.

17. **Claims 5, 7, 11, 14, 17, 18, 20, 21, and 23-25** are rejected under 35 U.S.C. 103(a) as being unpatentable over **EPA 841-K-94-001 "A State and Local Government Guide to Environmental Program Funding Alternatives" January 1994** (Hereinafter "**EPA**") in view of **Saxe** and further in view of **Applicant's Own Admission**.

18. **With respect to claims 5 and 14:** EPA teaches the local government body is one of a state, a county, township, parish, a state governmental agency, and a municipal governmental agency. (page 1, paragraph 1, page 2, paragraph 2-3 – federal, state and local governments are involved in the implementation of environmental protection programs at the state and local levels)

19. **With respect to claim 7:** EPA teaches:

- identifying a local government body that is to adhere to a water runoff pollution abatement program, including a pollution-related public educational element; (page 1, paragraph 1, page 2, paragraph 2-3 – federal, state and local governments are involved in the implementation of environmental protection programs at the state and local levels)
- based at least in part on the identification of the target viewer population and the identification of the local government body, selecting a sponsor for a televised public service-type announcement, including educational information related to water runoff pollution; (states and local governments should seek non-traditional/governmental funding means to support public environmental related programs)

- obtaining funding from the sponsor, at least a portion of which is dedicated to fund the water runoff pollution abatement program; (pages 1-18 – states and local governments should seek non-traditional/governmental funding means to support public environmental related programs)

EPA does not teach the limitation below, however Saxe teaches:

- retrieving demographic and television rating information from at least a first computer readable database; (col. 5, lines 42-51; col. 6, lines 49-67 - subscriber demographic information is added to each subscriber record; system used to identify prospective customers in order to direct targeted advertiser's commercial message)
- identifying a target television viewer population; (col. 5, lines 42-51; col. 6, lines 49-67 - subscriber demographic information is added to each subscriber record; system used to identify prospective customers in order to direct targeted advertiser's commercial message)

EPA/Saxe does not teach the limitation below, however Applicants Own Admission teaches:

- causing the public service-type announcement to be televised; (Background at paragraph 8 – Storm Water Phase II "rules relate to public education and outreach on storm water impacts, public involvement/participation ... and pollution prevention/good housekeeping for municipal operations) and
- performing an audit, wherein the audit determines whether the funding dedicated to fund the water runoff pollution abatement program was used to

fund the water runoff pollution abatement program. (Background paragraphs 9 and 10 – "Federal laws provides EPA and authorized state regulatory agencies with various methods of taking enforcement actions against violators of NPDES permit requirements.")

Therefore it would have been obvious to one of ordinary skill in the art of the invention to combine the teachings of Saxe relating to television ratings and demographics, Applicant's Own Admission that local government bodies have an EPA mandate to educate the public on environmental issues because of the need to educate the public in the proper way on pertinent issues and dutifully give credit to the correct sponsor.

20. **With respect to claim 11:** EPA/Saxe/Applicants Own Admission teach the limitations in the rejections above. However, EPA/Saxe/Applicants Own Admission does not teach the sponsor is a cable operator. Saxe teaches (col. 10, lines 26-67 – 30 minute promotional video offered by Travel Channel).

Therefore it would have been obvious to one of ordinary skill in the art of the invention to combine the teachings of Saxe relating to television ratings and demographics, Applicant's Own Admission that local government bodies have an EPA mandate to educate the public on environmental issues with the EPA's mandate because of the need to educate the public in the proper way on pertinent issues and dutifully give credit to the correct sponsor.

21. **With respect to claim 17:** EPA teaches:

- obtaining non-tax funding from a non-governmental entity used to televise the educational media; (pages 1-18 – states and local governments should seek non-traditional/governmental funding means to support public environmental related programs)

EPA does not teach however Saxe teaches:

- retrieving demographic and television rating information from at least a first computer readable database; (col. 5, lines 42-51; col. 6, lines 49-67 - subscriber demographic information is added to each subscriber record; system used to identify prospective customers in order to direct targeted advertiser's commercial message)
- based at least in part on the retrieved demographic and television rating information, selectively providing for televised broadcast educational media used to meet a governmental mandate related to pollution abatement; (col. 5, lines 42-51; col. 6, lines 49-67 - subscriber demographic information is added to each subscriber record; system used to identify prospective customers in order to direct targeted advertiser's commercial message)

Furthermore, EPA/Saxe does not teach, however Applicants Own Admission teaches:

- televising the educational media to at least a first set of potential viewers, the educational media including the identity of the non-governmental entity; (Background at paragraph 8 – Storm Water Phase II "rules relate to public education and outreach on storm water impacts, public

involvement/participation ... and pollution prevention/good housekeeping for municipal operations) and

- ensuring that at least a portion of the funding is used to fund compliance with the governmental mandate. (Background paragraphs 9 and 10 – “Federal laws provides EPA and authorized state regulatory agencies with various methods of taking enforcement actions against violators of NPDES permit requirements.”)

Therefore it would have been obvious to one of ordinary skill in the art of the invention to combine the teachings of Saxe relating to television ratings and demographics, Applicant's Own Admission that local government bodies have an EPA mandate to educate the public on environmental issues with the EPA's mandate because of the need to educate the public in the proper way on pertinent issues and dutifully give credit to the correct sponsor.

22. **With respect to claim 18:** EPA teaches identifying the local government body as one that is required to adhere to the governmental mandate, wherein the governmental mandate relates to a water runoff pollution abatement program including a public educational element. (page 1, paragraph 1, page 2, paragraph 2-3 – federal, state and local governments are involved in the implementation of environmental protection programs at the state and local levels).

23. **With respect to claim 20:** EPA/Saxe/Applicants Own Admission teach the limitations in the rejections above. However, EPA/Saxe/Applicants Own Admission does not teach the governmental mandate includes a requirement to educate people

regarding abatement of water runoff pollution. Applicants Own Admission teaches the governmental mandate includes a requirement to educate people regarding abatement of water runoff pollution. (Background at paragraph 8 – Storm Water Phase II "rules relate to public education and outreach on storm water impacts, public involvement/participation ... and pollution prevention/good housekeeping for municipal operations").

Therefore it would have been obvious to one of ordinary skill in the art of the invention to combine the teachings of Saxe relating to television ratings and demographics, Applicant's Own Admission that local government bodies have an EPA mandate to educate the public on environmental issues with the EPA's mandate because of the need to educate the public in the proper way on pertinent issues and dutifully give credit to the correct sponsor.

24. **With respect to claim 21:** EPA/Saxe/Applicants Own Admission teach the limitations in the rejections above. However, EPA/Saxe/Applicants Own Admission does not teach the governmental mandate relates to the EPA's Best Management Practices in abating water runoff pollution. Applicants Own Admission teaches the governmental mandate relates to the EPA's Best Management Practices in abating water runoff pollution. (Background at paragraph 8 – Storm Water Phase II "rules relate to public education and outreach on storm water impacts, public involvement/participation ... and pollution prevention/good housekeeping for municipal operations").

Therefore it would have been obvious to one of ordinary skill in the art of the invention to combine the teachings of Saxe relating to television ratings and

demographics, Applicant's Own Admission that local government bodies have an EPA mandate to educate the public on environmental issues with the EPA's mandate because of the need to educate the public in the proper way on pertinent issues and dutifully give credit to the correct sponsor.

25. **With respect to claim 23:** EPA teaches the local government body receives a percentage of the funding. (page 2, paragraph 2 – states receive portion of State Revolving Funds).

26. **With respect to claim 24:** EPA/Saxe/Applicants Own Admission teach the limitations in the rejections above. However, EPA/Saxe/Applicants Own Admission does not teach use the funds for one or more of:

- a. hiring consultants to develop strategies to reduce storm water runoff;
- b. catch basin control to impede entry of pollutants into storm drains;
- c. storm drain cleaning;
- d. filtering;
- e. storm drain inserts;
- f. hiring grant-writing experts; pollution-related public awareness programs;
- g. a diversion project to divert runoff during dry weather for treatment prior to discharge into waterways; and
- h. collaborative efforts with other entities.

Applicants Own Admission teaches use the funds for one or more of:

- i. hiring consultants to develop strategies to reduce storm water runoff;

- j. catch basin control to impede entry of pollutants into storm drains;
- k. storm drain cleaning;
- l. filtering;
- m. storm drain inserts;
- n. hiring grant-writing experts; pollution-related public awareness programs;
- o. a diversion project to divert runoff during dry weather for treatment prior to discharge into waterways; and
- p. collaborative efforts with other entities.

(Background at paragraph 8 – Storm Water Phase II "rules relate to public education and outreach on storm water impacts, public involvement/participation ... and pollution prevention/good housekeeping for municipal operations).

Therefore it would have been obvious to one of ordinary skill in the art of the invention to combine the teachings of Saxe relating to television ratings and demographics, Applicant's Own Admission that local government bodies have an EPA mandate to educate the public on environmental issues with the EPA's mandate because of the need to educate the public in the proper way on pertinent issues and dutifully give credit to the correct sponsor.

27. **With respect to claim 25:** EPA teaches adopting a mark indicating that the water runoff pollution abatement program is being conducted and licensing this mark to the non-governmental entity to signify that the non-governmental entity is supporting the

program. (to implement environmental protection programs traditional sources of funding such as license plates)

28. **Claim 13** is rejected under 35 U.S.C. 103(a) as being unpatentable over **EPA** in view of **Saxe** and further in view of **Applicant's Own Admission** and further in view of **Srinivasan**.

29. **With respect to claim 13:** EPA/Saxe/Applicants Own Admission teach the limitations in the rejections above. However, EPA/Saxe/Applicants Own Admission does not teach the televised public service-type announcement includes sponsor identification. Srinivasan teaches the televised public service-type announcement includes sponsor identification. (col. 5, lines 10-22, 55-63 – relevant sponsor identifying information can be added to broadcast of programming and commercials)

Therefore it would have been obvious to one of ordinary skill in the art of the invention to combine the teachings of Saxe relating to television ratings and demographics, Applicant's Own Admission that local government bodies have an EPA mandate to educate the public on environmental issues with the EPA's mandate as well as Srinivasan's information on sponsors because of the need to educate the public in the proper way on pertinent issues and dutifully give credit to the correct sponsor.

30. **Claims 9, 15 and 22** are rejected under 35 U.S.C. 103(a) as being unpatentable over **EPA** in view of **Saxe** and further in view of **Applicant's Own Admission** and further in view of **Nickerson**.

31. **With respect to claim 9:** EPA/Saxe/Applicants Own Admission teach the limitations in the rejections above. However, EPA/Saxe/Applicants Own Admission does not teach estimating how many individuals viewed the televised public service-type announcement in a first selected time period. Nickerson teaches estimating how many individuals viewed the televised public service-type announcement in a first selected time period. (col. 3, line 61 to col. 4, line 11; col. 4, lines 35-45; col. 5, line 64 to col. 6, line 25 – television viewer data collection system monitors viewing choices of cable TV viewer; time of viewing monitored)

Therefore it would have been obvious to one of ordinary skill in the art of the invention to combine the teachings of Saxe relating to television ratings and demographics, EPA's mandate, Applicant's Own Admission that local government bodies have an EPA mandate to educate the public on environmental issues and Nickerson relating to collecting viewer data because of the need to educate the public in the proper way on pertinent issues and dutifully give credit to the correct sponsor.

32. **With respect to claim 15:** EPA/Saxe/Applicants Own Admission teach the limitations in the rejections above. However, EPA/Saxe/Applicants Own Admission does not teach the public service-type announcement is televised by a cable operator. Nickerson teaches the public service-type announcement is televised by a cable operator. (col. 3, line 61 to col. 4, line 11; col. 4, lines 35-45; col. 5, line 64 to col. 6, line 25 – television viewer data collection system monitors viewing choices of cable TV viewer; time of viewing monitored)

Therefore it would have been obvious to one of ordinary skill in the art of the invention to combine the teachings of Saxe relating to television ratings and demographics, EPA's mandate, Applicant's Own Admission that local government bodies have an EPA mandate to educate the public on environmental issues and Nickerson relating to collecting viewer data because of the need to educate the public in the proper way on pertinent issues and dutifully give credit to the correct sponsor.

33. **With respect to claim 22:** EPA/Saxe/Applicants Own Admission teach the limitations in the rejections above. However, EPA/Saxe/Applicants Own Admission does not teach televised educational media includes images of at least one of a local mountain range, an image of a local body of water, and an image of a local endangered species. Nickerson teaches televised educational media includes images of at least one of a local mountain range, an image of a local body of water, and an image of a local endangered species. (col. 3, line 61 to col. 4, line 11; col. 5, line 64 to col. 6, line 25 – television viewer data collection system monitors viewing choices of cable TV viewer)

Therefore it would have been obvious to one of ordinary skill in the art of the invention to combine the teachings of Saxe relating to television ratings and demographics, EPA's mandate, Applicant's Own Admission that local government bodies have an EPA mandate to educate the public on environmental issues and Nickerson relating to collecting viewer data because of the need to educate the public in the proper way on pertinent issues and dutifully give credit to the correct sponsor.

34. **Claims 26, 28 29, 30 and 32** are rejected under 35 U.S.C. 103(a) as being unpatentable over **EPA** in view of **Saxe**.

35. **With respect to claim 26:** EPA teaches:

- identifying a governmental entity subject to a pollution reduction program; (pages 1-18 – states and local governments should seek non-traditional/governmental funding means to support public environmental related programs)
- obtaining voluntary funding from a non-governmental sponsor for at least a portion of the pollution reduction program; (pages 1-18 – states and local governments should seek non-traditional/governmental funding means to support public environmental related programs)
- arranging for at least a portion of the funding to be provided to the governmental entity for implementation of the pollution reduction program. (page 2, paragraph 2 – states receive portion of State Revolving Funds)

EPA does not teach, however Saxe teaches:

- arranging for educational media related to the pollution reduction program to be televised for viewing by the potential viewers, wherein the educational media includes identifies the non-governmental sponsor; (col. 5, lines 42-51; col. 6, lines 49-67 - subscriber demographic information is added to each subscriber record; system used to identify prospective customers in order to direct targeted advertiser's commercial message) and

- retrieving from an electronic database demographic and television rating information; (col. 5, lines 42-51; col. 6, lines 49-67 - subscriber demographic information is added to each subscriber record; system used to identify prospective customers in order to direct targeted advertiser's commercial message)
- identifying potential viewers based on the retrieved demographic and television rating information; (col. 5, lines 42-51; col. 6, lines 49-67 - subscriber demographic information is added to each subscriber record; system used to identify prospective customers in order to direct targeted advertiser's commercial message)

Therefore it would have been obvious to one of ordinary skill in the art of the invention to combine the teachings of Saxe relating to television ratings and demographics with the EPA's mandate to educate the public on environmental issues because of the need to educate the public in the proper way on pertinent issues and dutifully give credit to the correct sponsor.

36. **With respect to claim 28:** EPA teaches a non-governmental agency solicits the funding from the non-governmental sponsor. (pages 1-18 – states and local governments should seek non-traditional/governmental funding means to support public environmental related programs)

37. **With respect to claim 29:** EPA teaches the pollution reduction program is a water pollution reduction program. (pages 1-18 – states and local governments should

seek non-traditional/governmental funding means to support public environmental related programs)

38. **With respect to claim 30:** EPA teaches the pollution reduction program is an air pollution reduction program. (page 4, paragraph 3 – discusses public-private partnership relating to public financing in relation to the Clean Air Act)

39. **With respect to claim 32:** EPA teaches the funding does not include tax revenues. (pages 1-18 – states and local governments should seek non-traditional/governmental funding means to support public environmental related programs)

40. **Claims 27, 33 and 34** are rejected under 35 U.S.C. 103(a) as being unpatentable over **EPA** in view of **Saxe** and further in view of **Nickerson**.

41. **With respect to claim 27:** EPA/Saxe teach the limitations in the rejections above. However, EPA/Saxe does not teach the comparing an estimated number of viewers of the televised educational media with a specified number of impressions. However, Nickerson teaches the comparing an estimated number of viewers of the televised educational media with a specified number of impressions. (col. 3, line 61 to col. 4, line 11; col. 5, line 64 to col. 6, line 25; col. 7, lines 40-58 – television viewer data collection system monitors viewing choices of cable TV viewer; viewer market research conducted)

Therefore it would have been obvious to one of ordinary skill in the art of the invention to combine the teachings of Saxe relating to television ratings and

demographics, Applicant's Own Admission that local government bodies have an EPA mandate to educate the public on environmental issues and Nickerson relating to collecting viewer data because of the need to educate the public in the proper way on pertinent issues and dutifully give credit to the correct sponsor.

42. **With respect to claims 33 and 34:** EPA/Saxe teach the limitations in the rejections above. However, EPA/Saxe does not teach performing a market selection process, the market selection process based at least in part on a quantity of businesses of at least a first type in a first market, a size of at least of at least a subset of the first market population, and the first market's adjacency to a waterway. However, Nickerson teaches performing a market selection process, the market selection process based at least in part on a quantity of businesses of at least a first type in a first market, a size of at least of at least a subset of the first market population, and the first market's adjacency to a waterway. (col. 3, line 61 to col. 4, line 11; col. 5, line 64 to col. 6, line 25; col. 7, lines 40-58 – television viewer data collection system monitors viewing choices of cable TV viewer; viewer market research conducted).

Therefore it would have been obvious to one of ordinary skill in the art of the invention to combine the teachings of Saxe relating to television ratings and demographics, Applicant's Own Admission that local government bodies have an EPA mandate to educate the public on environmental issues and Nickerson relating to collecting viewer data because of the need to educate the public in the proper way on pertinent issues and dutifully give credit to the correct sponsor.

CONCLUSION

43. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Heidi Riviere whose telephone number is 571-270-1831. The examiner can normally be reached on Monday-Friday 9:00am-5:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

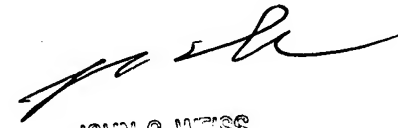
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Name: Heidi Riviere

Signature: 

Title: Examiner

Date: 1/9/2008


JOHN G. WEISS
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